

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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Jon D. Gruber, *individually and on behalf  
of all others similarly situated,*

Plaintiff,

v.

Ryan R. Gilbertson, et al.,

Defendants.

Case No. 16-cv-09727-WHP

**DEFENDANT RYAN GILBERTSON'S  
NOTICE OF MOTION AND MOTION  
TO DISMISS PLAINTIFF'S THIRD  
AMENDED CLASS ACTION  
COMPLAINT**

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**NOTICE OF MOTION**

PLEASE TAKE NOTICE that a hearing will be held on Tuesday, June 4, 2019 at 11:00 a.m. EDT before the Honorable William H. Pauley III, in courtroom 20B of the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007, on the Motion to Dismiss Plaintiff's Third Amended Class Action Complaint submitted by Defendant Ryan R. Gilbertson.

**MOTION**

Pursuant to Rule 12 of the Federal Rules of Civil Procedure, Defendant Ryan Gilbertson hereby moves the Court for an order dismissing Plaintiff's Third Amended Class Action Complaint in the above-captioned action on the ground that the Third Amended Class Action Complaint fails to state a civil RICO claim and Section 20A claim for which this Court may grant relief and fails to plead fraud with particularity. The

Motion is based upon all of the pleadings, files, records, and proceedings herein, the memorandum of law and exhibits in support of the Motion, and the arguments of counsel to be made at the hearing.

Dated: April 5, 2019

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